



## TOWN OF BEAUX ARTS VILLAGE

### TOWN COUNCIL MINUTES

July 27, 2004

Lowry

Mayor Lowry called the meeting to order at 7:30 pm. He noted that there is an addition to the agenda: Ms. Julie Stofel of the Washington State Department of Fish and Wildlife will speak about the eagle's nest located in the Village and the state and federal regulations in place to protect it.

**PRESENT:** Mayor Chuck Lowry, Councilmembers Betty Heckendorn, Malcolm Hickey, Tom Robinson and Judee Wells.

**EXCUSED:** Councilmember John Rose.

**STAFF:** Clerk-Treasurer Sue Ann Spens.

**GUESTS:** WABA Representative Chuck Thulin, Julie Christofferson, Peter and Ann Bowen, Mary Spens.

**MINUTES:** Councilmember Robinson moved to approve the June 8, 2004 minutes as amended. Councilmember Hickey seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

**CLERK'S REPORT:** Clerk-Treasurer Spens reported that Comcast has asked the Town to renew the franchise for cable TV and high-speed Internet services. She mentioned that the current franchise allows Comcast to continue providing service on a month-to-month basis until a new franchise is enacted. She noted that in the last franchise negotiation getting access to high-speed Internet services was an extremely important issue and asked if Councilmembers have any specific services or other issues that they want the new franchise to address. It was the consensus of the Council to give the question some thought and respond by email. If there are any such issues, Clerk-Treasurer Spens will forward them to the Town Attorney for his use in developing and negotiating the new franchise agreement.

**APPEAL OF BOARD OF ADJUSTMENT DECISION:** Clerk-Treasurer Spens reported that Kevin Kay has filed an appeal with the Council of the Board of Adjustment's decision on his variance request. She added that the hearing will be scheduled for the September 14, 2004 Council meeting and that Councilmembers will receive a separate packet of information for this hearing at least a week in advance to allow time to thoroughly review the materials.

**FIRST CALL FOR 2005 BUDGET ITEMS:** Clerk-Treasurer Spens reminded the Council that the budget cycle for 2005 begins soon and that each councilmember should begin developing their list of proposed budget items for submittal in September.

**WARRANTS:** Councilmember Heckendorn moved to approve the July 13, 2004 warrant list, including warrant numbers 6443 through 6465 in the amount of \$17,577.31. Councilmember Hickey seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

**MARSHAL'S REPORT:** No report.

**WABA REPORT:** WABA Representative Chuck Thulin reported that WABA has removed a tree near the south beach. He also reported that Aaron Sharp would remain Beachmaster until the end of the year and that Mr. Sharp has been enjoyable to work with.

He then informed the Council that WABA has filed a lawsuit in the matter of the dispute with the Solaros and that the Solaros have retained an attorney but WABA has not received any response to their filing.

Councilmember Hickey asked if WABA has any paving projects they would like to accomplish when the Town has Emerald Paving in for some minor projects on Town roads. Mr. Thulin said he would ask at the next WABA meeting.

**WATER REPORT:** Nothing to report.

**EMERGENCY PREPAREDNESS:** Nothing to report.

**PLANNING COMMISSION REQUEST FOR FURTHER CLARIFICATION ON ISSUES:** Mayor Lowry reminded the Council that the Council held off on providing the Planning Commission with additional instructions regarding a tree policy on public property because Councilmember Wells was unable to attend the June meeting, and she has demonstrated a strong interest in this issue. He added that the Council's June discussion had concluded that trees on public property are not a zoning-code issue, because the trees are not on private land, and so are not in the Planning Commission's realm of issues in the strictest sense. After a brief discussion, it was the consensus of the Council that this issue should remain with the Council for further study.

Mayor Lowry then asked the Council to comment on the Planning Commission's second memo on this topic dated July 16, 2004.

In discussing the first item, "Landscaping in the setback areas", the Council's main concern was the Planning Commission's focus on non-permanent vs. permanent improvements in the setback areas. Councilmember Robinson pointed out that our current zoning regulations have the effect of maintaining a green belt between properties, both public and private, and the idea of permanence/non-permanence doesn't seem to be a key factor that influences the preservation of the green belt. This first item also listed three new definitions, but the Council could not determine whether these definitions are needed or appropriate without context.

In discussing the second item, "Building height issues", the Council had specific comments about each point, as follows: (Planning Commission recommendations are shown in italics and may include only the salient point.)

1. *Existing grade level should be changed to original grade level . . .* A change from existing grade to original grade seems reasonable.
2. *Require height flags to be put in place for a required length of time before building commences.* Height flags are a great idea, provided the required length of time between their placement and the beginning of construction is specified and is reasonable.
3. *Yarrow Point allows an average height of 30' with no point higher than 32'.* A combination of average and maximum height may be a workable solution; however, the Yarrow Point Zoning Code sets the maximum height at 25 feet above original grade and does not regulate average height.
4. *Building permits . . . should be posted for a period of time on the site and on all mailboxes in the Village.* Posting building permits for major projects is a good idea; however, it is probably sufficient to post the permit at the proposed site only and the length of posting needs to be specified.
5. *Homeowners should meet with either Mona Green of the Building Inspector (the same person for every situation) before demolition occurs. . .* Requiring a preconstruction conference for all new construction/reconstruction projects is another good idea. Whether it is feasible to have that conference with the same person every time is something The McAndrews Group would have to address. Also, the ordinance would have to be clear that the homeowner is responsible for the cost of this conference, whether they choose to move forward with their project or not. (It should be noted that this is not a building-height issue.)
6. *One person in the Village needs to be responsible for all phases of the building process and to be available for all questions that may be asked.* The Council understands the rationale behind trying to have a single point of contact for permit holders and applicants; however, the reality is that our current staffing situation may not lend itself to such specialization. What do other cities with large in-house building departments do? Before determining the best solution to this challenge, the Council needs more specific information. (It should be noted that this also is not an issue related to building height.)
7. *The issue of whether to require roofs to be sloping (thereby avoiding rectangular or square box construction) is still under discussion.* With regard to requiring sloped roofs, the Council wonders if the Planning Commission intends for this to be a stand-alone requirement or an alternative? The Council agrees that the concept of breaking up the roofline is one method for reducing the apparent bulk of a large dwelling, but they are concerned that requiring sloped roofs (and thereby prohibiting flat roofs) impinges on the property owner's own taste and design preferences.

Mayor Lowry stated that he and the Council appreciate the hard work the Planning Commission has done on this project so far. Councilmember Heckendorn asked if it would be helpful to have a representative of the Planning Commission attend a future Council meeting to discuss these types of questions in person so as to eliminate some of the guesswork. It was the consensus of the Council that such a meeting would be useful.

**STATE AND FEDERAL REGULATIONS PROTECTING NESTING EAGLES:** Mayor Lowry introduced Julie Stofel, a biologist with the state Department of Fish and Wildlife (DFW). Ms. Stofel explained that she has confirmed the presence of an eagle's nest on a the property owned by Steve and Linda Matsudaira on 107<sup>th</sup> Avenue SE and that the presence of this nest triggers certain state and federal rules enacted to protect bald eagles as an endangered species. She further explained that Washington state has experienced a large increase in the number of nesting pairs of bald eagles, putting it ahead of many states in meeting the targets for the recovery of this species, and that because of this, our state has been allowed to relax our rules and use a "negotiated management approach".

She cautioned, however, that we still have a number of important regulations in effect and aimed at minimizing the impact of land-development activities, e.g. construction, tree cutting, land clearing, etc. on nesting pairs of eagles. She noted that the state's goal is to allow property owners to develop their property while still protecting eagles and it is for this reason that Washington state's bald-eagle regulations are written to slow the pace of tree removal rather than stopping it completely. She added that as the number of nesting pairs in our state increases, the state would re-evaluate its rules, but that some level of regulation will continue until all states meet their recovery targets and the bald eagle is delisted.

Ms. Stofel outlined the three zones that that apply to each known nest and their respective requirements:

- For all land-development activities within 400 feet of the nest, the DFW prepares a "Site-Specific Bald Eagle Management Plan". Furthermore, applicants for building and other land-development permits must contact the state DFW for site-specific restrictions developed after a site visit by a state biologist.
- For all activities more than 400 and up to 800 feet from the nest, and those that are within 250 feet of the shoreline and ½ mile of the nest, the DFW prepares a "Standard Bald Eagle Management Plan" specifying the types of trees that may be cut are regulated based on species and trunk diameter.
- For all activities more than 800 feet from the nest and not within 250 feet of the shoreline and ½ mile of the nest, the DFW prepares a "No Conditions Management Plan" explaining why no conditions are needed.

Ms. Stofel noted that having a dedicated green belt on public property in the vicinity of an eagle nest can influence the various management plans established to protect that nest by allowing more trees to be cut on private property than might otherwise be allowed. She noted that the urban forest on the rights of way within Beaux Arts is just such a green belt. She then commented that it is a misdemeanor to cut a tree if DFW has identified the tree as "no-cut" and the property owner allows the tree to be cut anyway.

Mayor Lowry thanked Ms. Stofel for her informative talk and stated that he will contact Town Attorney Stewart for ordinance language to provide whatever local regulations Beaux Arts needs to protect eagles' nests. He suggested that the Council continue its discussion of this issue at the September meeting if the proposed ordinance is available for review. It was the consensus of the Council to table further action until September.

**PUBLIC HEARING: PROPOSED ORDINANCE NO. 325 ADOPTING A SIX-YEAR COMPREHENSIVE STREET PROGRAM FOR THE YEARS 2005 THROUGH 2010, INCLUSIVE:** Mayor Lowry opened the public hearing at 8:55 pm and asked for comments from the public. As there were none, he closed the hearing at 8:57pm.

**MOTION:** Councilmember Heckendorn moved to pass Ordinance No. 325 adopting a six-year Comprehensive Street program for the years 2005 through 2010, inclusive. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain.

**PROPOSED RESOLUTION NO. 210 AUTHORIZING THE MAYOR TO EXECUTE AMENDMENTS TO THE CDBG AND HOME INTERLOCAL AGREEMENTS WITH KING COUNTY:** Clerk-Treasurer Spens explained that Beaux Arts approved the subject Interlocal Agreements several years ago and that the amendments presented tonight seek to increase the number of local representatives and reduce the number of County representatives in the administration of these block-grant programs.

**MOTION:** Councilmember Heckendorn moved to adopt Resolution No. 210 authorizing the Mayor to execute amendments to the Interlocal Cooperation Agreements with King County for the Community Development Block Grant and HOME Investment Partnerships programs. Councilmember Robinson seconded.

Vote: 4 For, 0 Against, 0 Abstain.

**PROPOSED RESOLUTION NO. 211 AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE McANDREWS GROUP FOR PROVIDING CODE SERVICES AGENCY, BUILDING OFFICIAL, ENGINEERING AND PLANNING SERVICES:** Mayor Lowry opened the discussion by explaining that this item is not a new contract with The McAndrews Group but an annual renewal of their contract with Beaux Arts that includes revised fees for services.

Julia Christofferson asked if the Council feels the Village has been getting quality service from The McAndrews Group. Councilmember Robinson stated that his recent experience with McAndrews was a positive one. No other Councilmembers have recent experience with McAndrews. Ms. Christofferson stated that during her recent minor remodeling project, her contractor mentioned that the building inspector failed to catch a couple of construction deficiencies that he (the contractor) discovered after the inspection and corrected on his own. She asked the Council if they had heard of similar experiences that, while not life-threatening, could certainly be of concern if they represent a pattern of behavior.

Mayor Lowry asked Clerk-Treasurer Spens to poll residents who have worked with McAndrews recently and see if any of them have similar concerns to those of Ms. Christofferson and report her finding to the Council in September. It was the consensus of the Council to delay action on this resolution until Clerk-Treasurer Spens reports her findings.

**REPORT AND RECOMMENDATIONS OF THE STREET-SIGN SUBCOMMITTEE:** Councilmember Hickey recapped the safety reasons for the formation of this subcommittee and stated that he is pleased with the thoroughness of their work and the clarity of their report to the

Council. He then showed the Council a prototype sign and explained the rationale behind using a brown backed sign with white reflective lettering that will contrast with the green signs Bellevue uses. He noted that Bill Beck can install the signs over the next three or so months so that all of the Town's signs are upgraded before winter weather arrives.

Councilmember Hickey estimated that the signs will cost \$2150 and there will be some additional cost for posts and other related supplies. It was the consensus of the Council that while this is not a budgeted expenditure, the budget can be amended if needed to accommodate the expenditure.

Clerk-Treasurer Spens will place a thank you notice in the newsletter commending this group for their efforts and will prepare thank you letters for Mayor Lowry's signature.

#### **MAYOR AND COUNCILMEMBER REPORTS:**

Councilmember Hickey reported that Emerald Paving would be placing an overlay on 106<sup>th</sup> Ave SE from 5-corners to SE 29<sup>th</sup> Street. He noted that this overlay was budgeted at \$6,000 and that he anticipates the cost will actually be \$7,125. It was the consensus of the Council that Councilmember Hickey should proceed with this project.

Councilmember Hickey reported that he investigated the cost of installing filters on the street drains at the foot of the North Beach Road (at Councilmember Heckendorn's request) and estimated that installing a filter would cost \$6,700 for this drain. He then cautioned that the main street drain is actually at the foot of the South Beach Road, though it starts in front of the Ferrees' property, and that this second drain carries too much flow to filter at a reasonable cost. He recommended that we put these projects on hold due to budget constraints until we are forced to install them. It was the consensus of the Council to follow Councilmember Hickey's recommendation.

**NEXT MEETING:** Clerk-Treasurer Spens reminded the Council that their next meeting is scheduled for September 14th and will be held at Councilmember Robinson's house.

**ADJOURN:** Councilmember Hickey moved to adjourn the meeting at 9:20pm.

Councilmember Heckendorn seconded.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Sue Ann Spens  
Clerk-Treasurer